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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,165	10/21/2003	Michael J. Biro	BMC-31502/02	3931
25006	7590	10/12/2005	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021			PETERSON, KENNETH E	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,165

Applicant(s)

BIRO, MICHAEL J.

Examiner

Kenneth E. Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-12 is/are pending in the application.
- 4a) Of the above claim(s) 8,9 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-7,10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5-7,10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bleam, who shows a meat bandsaw with most of the recited limitations a manifold (e.g. 36, etc.), a pair of downwardly pointing nozzles (21), flexible hose (35) and a support wall (just to right of nozzles in figure 3).

Bleam lacks a second pair of nozzles on the upwardly moving section of the band saw. Examiner continues to takes Official Notice that it is old and well known to employ a second blade cleaning mechanism on the upwardly moving section of the bandsaw blade. An example of this is the patent to Noizet '892, who shows inwardly facing valves 10 on the lower right hand side of figure 1, as discussed on lines 51 and 52 of column 2. A second example of this is the patent to Ahrndt et al.'824, who shows cleaning mechanisms (84) on both the upwardly moving flights and downwardly moving flights. Further in support of the taking of Official Notice are the patents to Thomson '035 showing cleaning mechanisms (16,17) on both the upwardly moving flights and downwardly moving flights, Sauter et al.'327, who shows plural sets of opposed nozzles (35,39) below the workpiece support, and Wells et al.'910, who shows plural nozzles (62,63,65,53,56) pointed at the saw blades at various locations.

It would have been obvious to one of ordinary skill in the art to have added a second cleaning mechanism, in the form of another pair of nozzles, to Bleam's upwardly moving bandsaw blade section, as is well known and suggested by Noizet, Ahrndt, Thomson, Sauter and Wells in order to better clean the blade.

3. Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that Bleam's nozzles are for air, whereas Applicant's nozzles are for water. However, one must look past the intended use of the device and see what structure is actually being claimed. In this case, Applicant is claiming a nozzle that *is capable* of carrying water. Bleam's nozzle and manifold are perfectly capable of carrying and emitting water. It is true that Bleam has no water, but Applicant has not claimed water (nor should he, since competitors could sell the machine dry).

Applicant argues that Noizet's nozzles have no relations to the flights of the saw blades. On the contrary, Noizet particularly points out that the nozzles are directed against the saw blades (lines 51,52, column 2), and as seen in figure 1 there are some nozzles on each flight.

Applicant argues that Arndt doesn't teach additional nozzles, but Arndt was only cited to show the "two cleaners are better than one" concept.

Perhaps most telling is the "compelling need" articulated in Wells 2nd paragraph, which elaborates on the need to clean the tool "*for sanitary and health reasons, and generally under legal compulsion*" in case the previous animal was diseased. It is really, really important to get this tool clean, and if they have to clean the blade twice, so

be it. This is the reason that all these references have multiple cleaning mechanisms against the blade, and this is the reason why it is obvious for Blean to have a second cleaning station that is the same as his first cleaning station, but at a separate location on the blade.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 571-272-4512. The examiner can normally be reached on Mon-Thur, 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kp
October 6, 2005



KENNETH E. PETERSON
PRIMARY EXAMINER